IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 842 (S/B) 2001

Er. Indra Mohan Arora ----- Petitioner

Vs.

Chairman/Management Director,
Bank of Baroda and others ----- Respondents.

Mr. L.P. Naithani i/b Mr. Sharad Sharma, Advocate for the petitioner.
Mr. Anil Kumar Joshi, Advocate for the respondents.

Coram: Hon'ble S.H. Kapadia, C.J.
Hon'ble Rajesh Tandon, J.

Date: 26.09.2003:

PC:-

The petitioner was recruited as Agriculture Officer on 8.7.1978 by the Bank of Baroda. He was posted in the category of Junior Management Grade Scale I. Examinations were held in 1991 for promotion to scale II. The petitioner did not get the promotion. Therefore, he filed a writ petition bearing no. 39814 of 1994, which was dismissed by the Allahabad High Court by Judgment dated 7.9.1998 on the ground that he had failed in the departmental examinations. It is the case of the petitioner in this petition that in the year 2000, he had gone to Baroda. He came to know that he had not failed. He claims that this information was received by him through some confidential source. He has, therefore, filed the present petition for setting aside the selection process of the Bank of 1991.

This petition has been adjourned several times. Several orders have been passed by the earlier Bench directing the Bank of produce documents indicating the marks obtained by the petitioners in the departmental examinations. Counter affidavit has been filed by the Bank stating that they have no records except a Note with an Annexure submitted by the Promotional Committee to the Chairman/Managing Director of the Bank on 22.04.1992. At this juncture, it may be mentioned that the petitioner had gone in appeal

to the Chairman against the decision of the Promotional Committee when the petitioner was not promoted. This was in 1991-92. At that time, the Promotional Committee has submitted the Note, referred to above to the Chairman. This Note has been signed by the three General Manager. This Note contains an Annexure. That annexure indicates the marks secured by the petitioner and other candidates. The Note has been signed by the three officers constituting the Promotional Committee. The Chairman has accepted the note as indicated by the remark dated 23.04.1992. As per that note, petitioner had not secured the eligible marks.

We are not inclined to interfere under Article 226 of the Constitution. Firstly, the petitioner had filed an appeal to the Chairman. That appeal was dismissed around 1992. Till date that order has not been challenged. Secondly, on 07.09.1998, The Division Bench of Allahabad High Court had dismissed the earlier writ petition filed by this petitioner stating that they have gone through the material on record and after considering that material, they have rejected the writ petition. The decision of Allahabad High Court has been confirmed by the Apex Court. However, it is argued on behalf of the petitioner that the list of marks annexed to the Note submitted to the Chairman by the Promotional Committee is not initialed/signed by any officer of the Bank. That Fax numbers printed on the Note do not tally. That despite several orders being passed by the earlier Bench of this Court, the Bank has failed to produce the original record. It is argued that the statement of marks annexed to the Note dated 22.04.1992 is on a different sheet of paper, it is not on the ledger paper, whereas the Note is on the ledger paper. Although this last argument is plausible, we are not inclined to interfere in this matter. Hence, petitioner has now challenged the genuineness of this Note. However, till today, no steps have been taken by the petitioner for Discovery and Inspection under Code of Civil Procedure. The Bank has stated on oath that the entire record has been misplaced.

The record available with the Bank has been produced. In the circumstances, we are not inclined to interfere.

However, this order will not prevent the petitioner from taking appropriate steps in accordance with law, if so advised.

We do not wish to express any opinion on the allegations made by the petitioner regarding fabrication of the documents.

Subject to above, the writ petition is rejected.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

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